The applications actually before me are for Vesting Orders only. I understand that the Bankruptcy law is shortly to be revised and that the Bill drafted for the purpose will contain provisions for dealing with the difficulties existing in cases like those before me. If so, such provisions might well be made to apply not only to proceedings in which a Petition is presented after the Bill becomes law but to all prior proceedings in which undistributed property remains in the hands of the Official Assignee as Receiver only.

At present I have no jurisdiction to make the Orders moved for and I must therefore refuse the application and dismiss the Motions in which they are made.

Motions dismissed.

[ORIGINAL CIVIL JURISDICTION]
McELWAINE, C.J.
February 26, 1937.

RE ALEXIUS RODRIGUES.

[SINGAPORE WAGE-EARNER'S ADMINISTRATION ..ORDER No. 465 of 1936].

Bankruptcy Ordinance (Cap. 45) s. 105—Wage-Earner's Administration Orders 34.

When a wage-earner's administration order is made against a debtor who has a share or interest in the capital of a registered co-operative society or a deposit with that society the Official Assignee is entitled to recover from the registered society a sum of money equal to the credit balance of such member in the society's hands at the date of the making of the wage-earner's administration order. For the purpose of s. 24 of the Bankruptcy Ordinance the making of a wage-earner's administration order is to be deemed an adjudication in bankruptcy.

MOTION.

E. B. Williams, Official Assignee, in support of the motion.

The facts and arguments appear sufficiently from the judgment.

Cur. Ad. Vult.

McELWAINE, C.J.—A wage-earner's administration order made against Alexius Rodrigues (hereinafter called the debtor) on 16th October 1936 under s. 103 of the Bankruptcy Ordinance.

The debtor has a sum of $174.20 standing to the credit of his account in the Singapore Government Servants' Co-operative Thrift and Loan Society Ltd. and the present application is to determine whether this sum vests in the Official Assignee by virtue of the wage earners' administration order.

S. 23 of the Co-operative Societies Ordinance gives to a registered society a lien upon the share or interest in the capital and on the deposits of a member or past member of the society in respect of any debt due from such member or past member and may set off any sum credited or payable to the member or past member in or towards payment of any such debt.

S. 24 reads as follows:—

> "Subject to the provisions of s. 23, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any judgment or order of a Court of Justice in respect of any debt or liability incurred by such member, and the Official Assignee under the law relating to Bankruptcy for the time being in force shall not be entitled to or have any claim on such share or interest:
>
> Provided that the Official Assignee shall be entitled to recover from the registered society a sum of money equal to the amount of the credit balance of such member in the society's hands at the date of the adjudication of such member as a bankrupt."

The short point of the application is whether a member of a registered co-operative society against whom a wage-earner's administration order has been made can be said to have been adjudicated as a bankrupt with the consequence that the Official Assignee may recover from the society a sum of money equal to the amount of the credit balance in the society's hands of the person against whom a wage-earner's administration order has been made.

S. 105 of the Bankruptcy Ordinance distinguishes between a bankruptcy petition and a wage-earner's administration order petition because there is a difference in the consequences.

Sub-s. 7 of this section enacts:—

> "Subject to the modifications set out in sub-s. 8 a wage earner's administration order.....shall have effect in the same manner and to the same extent as if in regard to the debtor.....a receiving order and an order of adjudication had been made against him.....and all the provisions of this Ordinance (other than s. 114 hereof) shall apply accordingly."

The modifications shortly are that there is to be no public examination, the registrar may exercise certain powers exercised by a Judge in bankruptcy, and the debtor shall, in proceedings under the Bankruptcy Ordinance be referred to as "a debtor and not as a bankrupt" and for the purposes of this section the word "bankrupt" wherever it occurs in the Ordinance shall be read as "debtor."

This section 105 is part of the Bankruptcy Ordinance. An order made under it is an order of the Court in Bankruptcy. With certain minor exceptions a person against whom a wage-earner's administration order has been made is in the same position as a bankrupt. His property vests in the Official Assignee, the Official Assignee distributes it among the creditors, the debtor is liable to be punished if he commits an offence for which a bankrupt can be punished, his administration order may be discharged just as a bankrupt's adjudication order may be discharged.

The wording of sub-s. 7 paragraph (d) is to be noted, " In proceedings under *this* Ordinance a debtor shall be *referred* to as a debtor and not as a bankrupt." Nowhere does it say that he is not a bankrupt. In fact he is a bankrupt though the Legislature has seen fit to enact that for the purposes of any other Bankruptcy Ordinance—not for the purposes of any other Ordinance—he is to be called a sweeter name, and his estate is to be managed in a simpler, more summary and less expensive manner than is necessary in the case of traders whose insolvency may be more complicated and more extensive than the insolvency of a man whose only source of income is a salary not exceeding $350 per month.

In my opinion the intention of the Legisture (which can only be derived from the language it has used) is that a wage-earner against whom an administration order has been made is to be regarded as a bankrupt with certain minor privileges which other bankrupts do not enjoy, among them the sentimental one—if one can attribute sentiment to the Legislature—of being called a debtor instead of a bankrupt in proceedings under the Bankruptcy Ordinance. I return to sub-s. 7, the effect of an administration order is the same " as if in regard to the debtor named therein a receiving order and an order of adjudication had been made against him." I repeat, he is called a debtor instead of a bankrupt only for the purposes of the Bankruptcy Ordinance. The reality of the matter is that he is a bankrupt and in my opinion the phrase "adjudication of such member as a bankrupt " in s. 24 of the Co-operative Societies Ordinance includes the making of a wage-earner's administration order against such member.

I would add two words. The problem I was asked to solve was stated to me by Mr. E. B. Williams in his two capacities of Official Assignee and of Vice-President of the Singapore Government Servants' Co-operative Thrift and Loan Society.

I regret this matter should have come before me. As Attorney-General I had a share in drafting s. 105 of the Bankruptcy Ordinance and in the same capacity I had charge of the section when it was a bill before the Legislative Council of which I was then a member. However, the Official Assignee, the Vice-President of the Coperative Society concerned and the debtor have all united in agreeing to my explaining the effect of the section in question, and in doing so I have not adopted, nor have I been tempted to adopt, a mode of interpretation which commended itself to Bereford, C.J. (See Year Book 5 Edward II) who, knowing the intention of the draftsman of *de donis conditionalibus* read a proviso into that Act which the Act did not contain and which could not be inferred from anything which it did contain.

Order Accordingly.

[ORIGINAL CIVIL JURISDICTION]

McElwaine, C.J.

March 17, 1937.

RE TAN CHENG SIONG DECD.

CHARLES CLEMENT DUNMAN.....Plaintiff

vs.

1. TAN SENG HWEE
2. TAN CHIN TUAN.....Defendants

[SINGAPORE ORIGINATING SUMMONS No. 170 of 1936.]

Will—construction—words—"children" and "my paternal uncles"—conflict of laws.

After making divers bequests a Chinese testator directed his trustees to receive the dividend and income derived from certain shares and " thereout to pay yearly to the said Tan Chian Lee (*one of the Trustees*) the sum of one thousand dollars ($1,000/-) for the maintenance of the children of my paternal uncles in China and to divide the balance thereof into four equal parts and to pay one part to my son Tan Swee Hong, one part to my son Tan Seng Hwee and two parts to my adopted son Tan Chin Tuan."

Held, that as the Will did not shew that the Testator had created his own dictionary the expressions "paternal uncles" and "children" must be confined to their primary meanings; that is to say, "paternal uncles in China" refers to the natural and lawful brothers of the father of the testator residing in China and "children of my paternal uncles in China" to the natural and lawful children of such paternal uncles. The status of adoption is unknown to the law of the Colony and therefore no rights can be derived from such a status in the Colony.

ORIGINATING SUMMONS.

The questions propounded for determination by the Court and the arguments sufficiently appear from the judgment below.

John Laycock for the plaintiff.

Smith for the defendants.

S. K. Dass for C. F. J. Ess, Deputy Registrar, appointed to represent members of a class of persons interested in contending that the expression " my paternal uncles in China " refers to other persons as well as the natural and lawful brothers of the testator's father.

Cur. Ad. Vult.

McELWAINE, C.J.—This Originating Summons asks for the determination of certain questions arising on the construction of the will of Tan Cheng Siong, deceased. The present application concerns four of those questions.

Tan Cheng Siong by his last will made on 16th January 1917 appointed Tan Seng Boo, Tan Chian Lee and Mrs. Blackmore to be his excecutors and trustees. The testator died on 17th October 1922 and probate was granted to Tan Seng Boo and Tan Chian Lee, Mrs. Blackmore having previously renounced. By a judgment of the Supreme Court dated 26th May 1927, Tan Seng Boo and Tan Chian Lee were removed from acting further as trustees of the said will and Mr. C. C. Dunman, the present plaintiff was appointed a trustee of the will in place of them.

The first defendant is a son and the second an adopted son of the testator and both are beneficiaries under the will.

The paragraph of the will which I am asked to interpret is as follows:—